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SUBJECT: LEGISLATIVE REFORMS WOULD GIVE FSLN "ABSOLUTE
POWER"

Classified By: CDA Peter Brennan for reasons 1.4 (b and d)

¶1. (SBU) Summary: National Assembly deputies began approving the articles of a law on December 5 that would give the Sandinista Front (FSLN) caucus in the 2007-2012 Assembly greatly expanded powers, reduce legislative transparency, expand the Assembly's overall authority, and increase routes for a possible amnesty of convicted Liberal Constitutional Party (PLC) leader Arnoldo Aleman. The reforms to the "Organic Law" that governs the National Assembly have been widely condemned by the Nicaraguan Liberal Alliance (ALN) and constitutional experts. President Bolanos will likely delay implementation of the reforms until the new Assembly and FSLN administration take office in January. In our upcoming meeting with FSLN International Affairs Secretary Samuel Santos, Charge will raise our consternation over this latest turn of events. Specifically, we will remind him that any support for an Aleman amnesty will have negative consequences. End Summary.

¶2. (U) The FSLN and PLC took advantage of the absence of ALN-affiliated National Assembly president Eduardo Gomez to table a series of reforms to the Assembly's Organic Law that strengthens the FSLN, while easing barriers to an amnesty for PLC leader Arnoldo Aleman. A modified version of the reforms, which were approved by the Assembly "in general" last February, was tabled by PLC deputy Maria Auxiliadora Aleman on November 23. Some PLC deputies balked at the revisions, but were quickly brought into line by Aleman, who announced on December 4 that the PLC caucus would support the changes. ALN caucus chief Maria Eugenia Sequiera told poloff on December 5 that the reforms would give the FSLN "absolute power" in exchange for Aleman's freedom. Several ALN officials and a constitutional expert agreed that the changes demonstrate a deepening of the PLC-FSLN political pact.

Procedural Changes Strengthen FSLN, Reduce Transparency
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¶3. (U) The proposed reforms to the Organic Law regard procedural changes and modifications that grant more powers to the legislature. The following is a summary of the procedural changes.

-- Lower number required for quorum: The proposed reforms would allow one-third of the deputies (33) to convoke a plenary session of the National Assembly instead of a simple majority (47). Moreover, the Executive Board may establish a quorum with four members (instead of six) out of seven -- the president would cast two votes in case of a tie.

-- Minority may modify agenda: In addition, the reforms would

allow a one-third minority to reform the daily legislative agenda. Currently, only the president of the Executive Board may create/modify the agenda with the approval of a majority of Executive Board members.

-- Executive Board/Commissions formed for 2 1/2 years: Currently, Assembly deputies vote to reconstitute the Executive Board and Commissions annually. The proposed reforms would establish a 2 1/2-year period for the Executive Board and Commissions -- in other words, the composition of the legislative bodies would only change once during the five-year legislative cycle. (Note: Some PLC deputies have proposed reconstituting Assembly bodies every two years for the first four years and again for the last year of the cycle. End Note.)

-- Only caucus chiefs may propose Executive Board candidates: According to the new regulations, only the heads of caucuses may propose members for the Executive Board, instead of allowing any deputy to run. (Note: Political parties/alliances must have four members to constitute a caucus. End Note.)

-- Secret Votes: According to the proposed reforms, the Executive Board may agree to conduct secret votes. In addition, the Assembly president may convoke a private session "if necessary."

Assembly Increases Authority, Reduces Barriers to Aleman Amnesty

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¶4. (U) The following proposals would grant the National Assembly additional powers in a range of areas:

-- Power to summon: Under the proposed regulations, Assembly Commissions would have the authority to issue legal summons to anyone in Nicaragua (not only public servants) and possibly denounce that person before the Public Ministry. The Commission would not be required to reveal sources.

-- New routes for amnesty: According to the new rules, virtually any NGO or family member of a convicted person (such as Arnaldo Aleman) could introduce an act of pardon for that person to the National Assembly's Commission for Human Rights. The Commission will have the authority to grant amnesty without requiring a majority vote in the Assembly for a range of crimes, which include Aleman's convictions.

-- Power to formulate national budget: Under current regulations, the executive branch formulates the national budget before passing it to the legislature for approval. The new rules would transfer this authority to the Assembly.

Constitutional Law Expert Criticizes Proposal

¶5. (C) On December 4, constitutional law expert Gabriel Alvarez publicly criticized the proposal, unequivocally dubbing it "unconstitutional" for allowing a minority in the National Assembly to convene the plenary. (Comment: Any legal challenge to the reforms based on constitutionality will not likely bear fruit in the corrupt, pact-controlled court system. End Comment.) Alvarez called the reforms "evidence of the strengthening of the PLC-FSLN pact," and noted that the changes appear to principally benefit the FSLN caucus, which is the only group capable of mustering 33 votes without the support of another caucus.

¶6. (U) Alvarez also criticized the proposal limiting Executive Board nominations to the heads of the caucuses. He indicated that this change will give the caucus chiefs even more influence over their members and fortify the system of political solidarity (versus conscience voting).

ALN Denounces Reforms

¶7. (U) ALN head Eduardo Montealegre and ALN deputies Maria Eugenia Sequiera, Delia Arellano, and Jorge Matamoros strongly denounced the proposed reforms for strengthening the PLC-FSLN pact. Montealegre publicly denounced that the PLC would deliver more power to the FSLN in exchange for an amnesty for Aleman. Matamoros added that the FSLN is looking for a mechanism to free Aleman without paying a political price.

¶8. (C) Sequiera, currently the head of the ALN caucus, accused the PLC and FSLN of plotting to shut out the other political parties with an agreement to swap control of the Assembly. During a conversation with poloff, she commented that allowing one-third of the deputies to convene the plenary would give too much power to the FSLN and "create political chaos and instability." Sequeira also labeled "dangerous" the Assembly's new power to summon private citizens without revealing witnesses and strip deputies of the right to run for Executive Board positions individually. When asked why ALN deputy and current Assembly president Eduardo Gomez did not block the vote, she responded that Gomez is currently on a trip to Japan and will not return until the end of the week.

¶9. (C) Arellano confirmed to poloff that the FSLN and PLC took advantage of Gomez' absence to bring to the floor a "flawed" law that serves to facilitate an Aleman amnesty. She commented that ALN representatives will speak to President Bolanos to ask him not to sign the law to delay its implementation. (Note: Bolanos has the power to delay implementation until the next administration takes over in January. End Note.)

FSLN: Reforms are Necessary to Modernize Assembly
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¶10. (U) FSLN Deputy Walmaro Gutierrez, a member of the Modernization Commission and a key author of the reforms, stated publicly that the reforms are necessary to improve the functioning of the National Assembly by streamlining basic procedures. Gutierrez supported the lengthening of the Executive Board and Commission terms by claiming that longer terms would provide greater stability and continuity. In addition, he said that the reforms would "more effectively link voters with the Assembly."

Comment: The Pact Continues
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¶11. (C) Despite Gutierrez' justifications, many of the reforms to the Organic Law are a clear indication of a deepening pact -- the FSLN and PLC continue to run the country for the benefit of their parties. The changes make the Assembly less democratic and more opaque by giving a minority caucus more power at the expense of consensus, allowing for secret votes, and restricting the rights of individual members to operate outside of the party leadership structures. The reforms regarding the amnesty provisions blatantly favor Aleman. We will continue to track the progress of this legislation. In our upcoming meeting with FSLN International Affairs Secretary Samuel Santos on December 7, Charge will raise our consternation over this latest turn of events, and if the law passes, urge Ortega to veto the articles allowing for easy amnesty and the provision allowing secret voting. Specifically, we will remind the FSLN that any support for an Aleman amnesty will have negative consequences.

BRENNAN